

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 TALAVANE KRISHNA, M.D.,

7 Plaintiff,

2:05-cv-00336-RLH-LRL

8 v.

ORDER

9 MASSACHUSETTS MUTUAL LIFE
10 INSURANCE COMPANY, *et al.*,

11 Defendants.
12

13 Before the court is defendant Mass Mutual's Motion for Sanctions for Plaintiff's Failure to
14 Comply with Court Order (# 44) and their Reply (# 47). Plaintiff has not responded the motion.

15 On January 30, 2006, this court entered an Order (# 31) requiring plaintiff to "answer Mass
16 Mutual's interrogatories and provide the requested documents, without objection, by February 13,
17 2006." Plaintiff has not provided the discovery as ordered. Nor did he file a response to the motion,
18 and explain the circumstances of his noncompliance with this court's order. Therefore, sanctions are
19 warranted.

20 As a sanction Mass Mutual seeks an order dismissing this action, or alternatively, imposing
21 substantial evidentiary sanctions pursuant to Fed.R.Civ.P. 37(b). Defendants contend that plaintiff's
22 failure to respond to the instant motion constitutes his consent to the granting of the motion pursuant
23 to LR 7-2(d), and for that reason alone the request for the extreme sanction of dismissal or an
24 evidentiary limitation should be granted. The court disagrees.

25 Before granting such extreme sanctions the court must first determine that less drastic sanctions
26 will be ineffective . *See Hamilton Copper & Steel Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429

1 (9th Cir. 1990). The court therefore admonishes plaintiff that another such failure to comply with this
2 court's discovery orders will likely result in additional sanctions including evidentiary sanctions, or
3 dismissal of the complaint.

4 Accordingly and for good cause shown,

5 IT IS ORDERED that defendant Mass Mutual's Motion for Sanctions for Plaintiff's Failure to
6 Comply with Court Order (# 44) is GRANTED to the following extent:

7 (1) Plaintiff shall, not later than June 30, 2006, pay to counsel for Mass Mutual the sum of
8 \$1,400.00 as the reasonable fees incurred in making this motion; and

9 (2) Plaintiff shall answer Mass Mutual's interrogatories and provide the requested documents,
10 without objection, not later than **June 12, 2006**.

11 DATED this 31st day of May, 2006.

12 

13
14 **LAWRENCE R. LEAVITT**
15 **UNITED STATES MAGISTRATE JUDGE**
16
17
18
19
20
21
22
23
24
25
26